

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TYLER DIVISION

RALPH EARL THOMAS §  
v. § CIVIL ACTION NO. 6:12cv282  
DIRECTOR, TDCJ-CID §

MEMORANDUM ADOPTING REPORT AND RECOMMENDATION  
OF THE UNITED STATES MAGISTRATE JUDGE  
AND ENTERING FINAL JUDGMENT

The Petitioner Ralph Thomas, proceeding *pro se*, filed this application for the writ of habeas corpus challenging the legality of his conviction. This Court ordered that the matter be referred to the United States Magistrate Judge pursuant to 28 U.S.C. §636(b)(1) and (3) and the Amended Order for the Adoption of Local Rules for the Assignment of Duties to United States Magistrate Judges.

Thomas complains of a conviction for fraudulent use of identifying information, for which he received a sentence of 10 years in prison. In his federal habeas petition, he complained that his conviction was improperly obtained by an unlawfully induced plea of guilty due to ineffective assistance of counsel, he did not understand what he was pleading to because his attorney told him that he was going to get the enhancement dropped, and the judge did not make clear what he was pleading to, so he believed he was pleading to a state jail felony when in fact the offense had been enhanced to a third degree felony.

The Magistrate Judge ordered the Respondent to answer the petition. Thomas did not file a response to the answer. After review of the pleadings and the state court records, the Magistrate Judge issued a Report on October 5, 2012, recommending that Thomas' petition be dismissed and that Thomas be denied a certificate of appealability *sua sponte*. Thomas received a

copy of the Report on October 12, 2012, but filed no objections thereto; accordingly, he is barred from *de novo* review by the district judge of those findings, conclusions, and recommendations and, except upon grounds of plain error, from appellate review of the unobjected-to proposed factual findings and legal conclusions accepted and adopted by the district court. Douglass v. United Services Automobile Association, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*).

The Court has reviewed the pleadings and records in this cause as well as the Report of the Magistrate Judge. Upon such review, the Court has determined that the Report of the Magistrate Judge is correct. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir.), *cert. denied*, 492 U.S. 918, 109 S.Ct. 3243 (1989) (where no objections to a Magistrate Judge's Report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law."). It is accordingly

ORDERED that the Report of the Magistrate Judge (docket no. 12) is ADOPTED as the opinion of the District Court. It is further

ORDERED that the above-styled application for the writ of habeas corpus is hereby DISMISSED with prejudice. It is further

ORDERED that the Petitioner Ralph Thomas is hereby DENIED a certificate of appealability *sua sponte*. Finally, it is

ORDERED that any and all other motions which may be pending in this civil action are hereby DENIED.

**So ORDERED and SIGNED this 20th day of December, 2012.**

A handwritten signature in black ink, appearing to read "LEONARD DAVIS", is written over a horizontal line. The signature is fluid and cursive, with a large, stylized "L" at the beginning.

**LEONARD DAVIS  
UNITED STATES DISTRICT JUDGE**